

STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION  
(Pre-publication of Notice Statement)

Amend Section 27.65  
Title 14, California Code of Regulations (CCR)  
Re: Rockfish Fillet Provisions

I. Date of Initial Statement of Reasons: July 11, 2006

II. Dates and Locations of Scheduled Hearings:

- |     |                      |           |                  |
|-----|----------------------|-----------|------------------|
| (a) | Notice Hearing:      | Date:     | August 4, 2006   |
|     |                      | Location: | Sacramento, CA   |
| (b) | Discussion Hearings: | Date:     | October 6, 2006  |
|     |                      | Location: | San Diego, CA    |
|     |                      | Date:     | November 3, 2006 |
|     |                      | Location: | Redding, CA      |
| (c) | Adoption Hearing:    | Date:     | December 8, 2006 |
|     |                      | Location: | Santa Monica, CA |

III. Description of Regulatory Action:

- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

Depending on the species taken and the fishing location, recreational anglers may fillet their fish while fishing aboard vessels as described in regulations of Section 27.65, Title 14, CCR. Special regulations for filleting are needed so that other regulations defining minimum size limits are enforceable. Once a fish is filleted, it is often difficult or impossible to determine what species of fish the fillet originated from. Without special fillet regulations, individuals would be able to fillet fish at sea that were not of minimum size, and avoid enforcement of those limits when returning to port.

A minimum fillet size is provided for most species for which there is a minimum size limit, and regulations also specify additional requirements including how much skin must be left attached to the fillet, so that the species of fish can be readily identified.

Recreational anglers, and particularly the Commercial Passenger Fishing Vessel (CPFV) fleet, often prefer to fillet their catch at sea to ease waste disposal issues and to preserve the quality of the catch.

Subsection (b)(8) specifies the fillet rules for rockfish. Bocaccio is the only species of rockfish that has a minimum size limit (10 inches), and the corresponding minimum fillet size is five inches. Present regulations in this subsection, however, also require a 6.5-inch minimum size for "brown-skinned" rockfish fillets.

Rockfish, and particularly rockfish fillets, look very similar in appearance to kelp bass fillets, and can easily be confused. Kelp bass have a minimum size limit of 12 inches and a corresponding fillet size limit of 6.5 inches. Therefore, to ensure the minimum size limit for

kelp bass was adhered to, regulations were also needed for rockfish fillet sizes.

However, when those regulations for kelp bass and rockfish fillets were established many years ago, there was no requirement that the skin be left intact on the entire rockfish fillet. At that time, the regulations required only that rockfish fillets have a one-inch by one-inch patch of skin left attached to the fillet.

In 2004, the regulations in (b)(8) for rockfish fillets were amended, and the skin patch requirement was eliminated in favor of the requirement that all rockfish fillets must have the entire skin left attached. This change was needed to improve identification of rockfish species, which became increasingly important for enforcement staff to be able to do, given new regulations that prohibit retention of certain species of rockfish such as cowcod, canary and yelloweye rockfish.

However, when that 2004 amendment was made, the requirement that all “brown skinned” rockfish fillets must be 6.5 inches was inadvertently left in place. Today, the regulation no longer serves its intended purpose, since there is no longer any potential confusion between bass fillets and rockfish fillets, since rockfish fillets now must have the entire skin intact.

The “brown-skinned” regulation has also proven to be vague and confusing to the public and enforcement staff alike, given that there is no definition of “brown skinned rockfish” provided in any regulation of Title 14. Because rockfish often have varying color patterns that are shades of brown, red, orange, gray, copper and pink, there is no distinct measure of which rockfish are “brown skinned” and which are not.

Moreover, the regulation has proven to be burdensome for anglers who wish to fillet their rockfish that are “brown skinned” but are of a size that cannot produce a fillet that is at least 6.5 inches long. This is most often the case for squarespot, gopher and calico rockfish, which are species which would almost certainly be classified as “brown skinned,” yet are generally small. Consequently, in practice, these fish are often released or discarded in exchange for a fish that can legally be filleted at sea, although the fish is otherwise legal to retain.

Based on the aforementioned reasons, the Department recommends the Commission remove the requirement that “brown skinned” rockfish fillets be 6.5 inches in length, as the regulation is no longer necessary for ongoing protection of the kelp bass resource, is needlessly confusing and vague, and is likely adding to rockfish discard rates.

(b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 202, and 205, Fish and Game Code.

Reference: Sections 200, 202, 205, 206, 209, 210, 215, 218, 220, 5508 and 5509, Fish and Game Code.

(c) Specific Technology or Equipment Required by Regulatory Change:

None.

(d) Identification of Reports or Documents Supporting Regulation Change:

None.

(e) Public Discussions of Proposed Regulations Prior to Notice publication:

None.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

No alternatives were identified.

(b) No Change Alternative:

Should the Commission select the No Change Alternative, public confusion and difficulty for enforcement will continue regarding which rockfish are “brown-skinned” and thus subject to the minimum fillet size requirement. Also, species of rockfish that are too small to produce fillets of the minimum size will continue to be discarded, although they are otherwise legal to retain.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

No significant adverse impacts. Eliminating the requirement that “brown skinned” rockfish fillets be 6.5 inches in length will aid enforcement, public understanding and reduce confusion. The change is minor and technical in nature.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

None.

(c) Cost Impacts on a Representative Private Person or Business:

None.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

(e) Nondiscretionary Costs/Savings to Local Agencies:

None.

(f) Programs Mandated on Local Agencies or School Districts:

None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None.

(h) Effect on Housing Costs:

None.

### Informative Digest/Policy Statement Overview

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Minor changes are proposed to improve the clarity of the regulations.